

ATTORNEY DOCKET NUMBER: 0492611-0530 (MIT 10077)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Levenberg <i>et al.</i>	Examiner:	Sgagias, M. K.
Serial No.:	10/731,672	Art Unit:	1632
Filed:	December 9, 2003		
Title:	ENGINEERING THREE-DIMENSIONAL TISSUE STRUCTURES USING DIFFERENTIATING EMBRYONIC STEM CELLS		

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Madam:

**DECLARATION UNDER 37 C.F.R. § 1.132**

I, Robert S. Langer, declare as follows:

1. I am an inventor of the subject matter disclosed and claimed in United States patent application, Serial No. 10/731,672, filed December 9, 2003, and entitled "ENGINEERING THREE-DIMENSIONAL TISSUE STRUCTURES USING DIFFERENTIATING EMBRYONIC STEM CELLS".

2. This Declaration is presented for the purpose of removing from consideration by the Examiner a reference by Levenberg *et al.*, entitled "Endothelial Cells Derived from Human Embryonic Stem Cells", *Proceedings of the National Academy of Sciences of the USA*, 99(7): 4391-4396, April 2, 2002.

3. The present Declaration is presented in accordance with *In re Katz*, 687 F.2d 450, 215 USPQ 14 (CCPA 1982) and establishes that the allegedly anticipatory material in the Levenberg PNAS reference (2002) was not invented by another.

4. Shulamit Levenberg, Ngan F. Huang, Erin Lavik, Joseph Itskovitz-Eldor and I are the co-inventors on the above-referenced application.

5. Levenberg, Itskovitz-Eldor and I are also co-authors of the Levenberg PNAS reference (2002). Justin S. Golub and Michal Amit are the other co-authors of the Levenberg PNAS reference (2002). However, Golub and Amit are not inventors of the claimed invention in the above-referenced patent application because they did not make an inventive contribution to the claimed invention.

6. Golub and Amit were working under my direction when they participated in the research which was described in the Levenberg PNAS reference (2002).

7. I, Robert S. Langer, declare that all statements made herein of my own knowledge are true and that these statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like are made punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patents that may issue thereon.

  
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Robert S. Langer, Sc.D.

  
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Date